



An
Bord
Pleanála

Inspector's Report ABP303272-18

Development	Construction of a house and garage.
Location	Cregaclare, Ardrahan, County Galway.
Planning Authority	Galway County Council.
Planning Authority Reg. Ref.	18/1363.
Applicant	Christopher Keane.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	Christopher Keane.
Observers	None.
Date of Site Inspection	20 th March, 2019.
Inspector	Paul Caprani.

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1.0 Introduction

ABP303272-18 relates to a first party appeal against the decision of Galway County Council to issue notification to refuse planning permission for the construction of a dwellinghouse and garage at a site to the south of the village of Ardrahan in South Galway. Galway County Council issued notification to refuse planning permission on the grounds that the applicant has not demonstrated sufficient rural links to the area as required under the Housing Policy Objectives contained in the Development Plan and would therefore set an undesirable precedent for future type development. A second reason states that the applicant has failed to provide satisfactory evidence to demonstrate that there is potable water of a sufficient quality available to serve the dwellinghouse.

2.0 Site Location and Description

- 2.1. The subject site is located in a rural area in South Galway approximately 25 kilometres south-east of Galway City and 2 kilometres south-east of the village of Ardrahan. Ardrahan Village is located on the old N18 national primary route which linked Galway and Limerick. The site itself is located on a rural third class road (the L4520) to the east of the former National Primary route. This local road runs eastwards from the small settlement of Labane which is located at the junction of the local road L4520 and the N18 approximately 500 metres to the west of the site. The local road serving the site is characterised by one-off housing and ribbon development which becomes less dense the further removed from the cross-roads. The ribbon development is more concentrated to the west near the junction with the N18. Dwellings in the vicinity of the site comprise of a mixture of single-storey and two-storey detached dwellings. The subject site comprises of a rectangular plot of land on the northern side of the local access road. There are two dwellinghouses to the immediate east of the subject site one of which has been completed relatively recently. A dwelling has also been completed to the rear of the site and is accessed via a access track which runs along the eastern boundary of the site. A dwellinghouse together with cluster of farm buildings and outhouses is located on

lands directly opposite the site, on the southern side of the access road. The access road serving the site is relatively narrow. It is however able to accommodate two vehicles passing in opposite directions. There are no footpaths along this section of the local access road.

- 2.2. The site itself is currently under grass and incorporates a significant downward slope from south to north away from the road. A narrow drystone wall runs along the front boundary of the site. The subject site and the surrounding fields are somewhat open with low hedgerows. A large band of deciduous trees are located to the north rear of the site. A large recessed post and wire fence provides access to the site. The site has a stated area of 0.29 hectares.

3.0 Proposed Development

- 3.1. Planning permission is sought for the construction of a dwellinghouse comprising of living accommodation and three bedrooms at ground floor level and two additional bedrooms, landing, storage and bathroom area within the roof pitch of the dwelling. The dwelling is rectangular in shape and is centrally located within the site setback just less than 30 metres from the front boundary. The dwelling rises to a ridge height of 6.84 metres and incorporates a nap plaster finish with a stone finish plinth and stone finished porch on the front elevation. It is proposed to incorporate clay ridge tiles with two velux windows on the front elevation and four velux windows on the rear elevation.
- 3.2. A separate shed is also proposed to the rear of the dwellinghouse adjacent to the eastern boundary. The single storey pitched structure has a gross floor area of 48.6 square metres and incorporates similar elevation finishes to the main dwelling.
- 3.3. An on-site wastewater treatment system and percolation area is located to the rear of the shed. Details of the proposed landscaping along the boundary are indicated in the drawings submitted.

4.0 Planning Authority's Assessment

4.1. Decision

4.1.1. Galway County Council issued notification to refuse planning permission for two reasons. These reasons are cited in full below.

1. *The subject site is located within the Galway Transportation Planning Study Area of County Galway and subject to strong urban influence as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005 and Objective RHO1 (Rural Housing Zone 1) of the 2015 – 2021 Galway Development Plan. Having regard to the information submitted with the application and specifically the lack of documentary information demonstrating the applicant's rural links to the rear as specified in Objective RHO1, it is considered that the proposed development would not be consistent with the policy set out in the Plan for housing in rural areas. Accordingly, to grant the proposed development would contravene materially Objective RHO1 (b) contained in the County Development Plan 2015 – 2021, would be contrary to ministerial guidelines issued to the Planning Authorities under Section 28 of the Planning and Development Act 2000 (as amended), would set an undesirable precedent for similar future development in the area, and would be contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the absence of satisfactory evidence to demonstrate a suitable quantity and quality of water is available to serve the dwellinghouse, the Planning Authority is not satisfied that a potable water supply can serve the proposed development and therefore consider the development as proposed would be prejudicial to public health and would materially contravene Objective WS12 of the Galway County Development Plan 2015 – 2021.*

4.2. Documentation Submitted with the Planning Application

4.2.1. The planning application was accompanied by drawings, completed planning application form, public notices and planning application fee.

4.2.2. Also submitted with the application were:

- Land Registry Folio details.
- Site Characterisation Form.
- Housing Need Form.

4.2.3. The site characterisation form recommended the provision of a packaged wastewater treatment system and polishing filter with discharge to groundwater.

4.2.4. Unsolicited additional information was also submitted on 15th November, 2018. This additional information comprised of a Flood Risk Assessment Report.

4.2.5. It examines the potential for flooding in terms of:

- Pluvial flooding.
- Groundwater flooding.
- Sewer flooding.

It notes that the main threat of flooding arises from groundwater through due to the epikarstic environment in which the site is located. It notes that historic flood maps for Galway County and OPW historic records. These records did not indicate flooding at the subject site. However, there are numerous flood locations in the vicinity. It is further noted that the subject site was not flooded during the 2009 flood event nor in the 2015/2016 flood event. It concludes that the proposed dwellinghouse and the entire sewer system serving the dwellinghouse have a very low risk of flooding.

4.3. **Planning Authority Assessment**

4.3.1. The planning report sets out the extensive planning history associated with the area which includes the site and the lands around the site (see section below). The report also sets out details of the flood risk assessment, appropriate assessment, sightlines available at the entrance and proposed water supply arrangements. The report notes that this is the seventh application on the subject site and the applicant's fifth application and all previous applications have been either withdrawn or refused. It is stated that the applicant's circumstances remain the same. No land registry and folio details of the applicant's family land have been submitted. The applicant has not

submitted the long version of a birth certificate and no comprehensive documentary evidence linking the applicant to this area has been submitted. The lack of documentary evidence demonstrating the applicant's rural links to the area is not consistent with planning policy. Furthermore, no details of the well to service the dwelling have been submitted. For the above reasons the planner recommends that planning permission be refused for the proposed development.

- 4.3.2. In its decision dated 21st November, 2018 Galway County Council issued notification to refuse planning permission for the proposed development.

5.0 Planning History

- 5.1.1. There is an extensive planning history associated with the appeal site and adjacent sites. These are set out in detail in the local authority planner's report.
- 5.1.2. One appeal file is attached **PL07.246611**. This file relates to the subject site. Under this application and appeal the Board upheld the decision of Galway County Council to refuse planning permission for the construction of a dwellinghouse, garage, effluent treatment unit and all associated works. The application and appeal was made by the appellant in the case of the current appeal, Christopher Keane. Galway County Council issued notification to refuse planning permission for six reasons. The number of reasons were reduced to two in the Board's decision dated October, 2016 and these reasons related specifically to:
- (a) The lack of documentary information demonstrating the applicant's rural links to the area as specified in Objective RHO1 and that the proposal would not be consistent with the said policy set out in the development plan for housing in rural areas. The first reason for refusal also suggested that the proposal would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The second reason for refusal noted that the subject site was located adjacent to an identified groundwater flood risk area and if permitted would materially contravene flood risk policies contained in the current Galway Development Plan.
- 5.1.3. Other more relevant planning history is set out in the planning inspector's report in respect of 246611 and is briefly summarised below.

Galway County Council Reg. Ref. 15/659: Application by Christopher Keane to the Planning Authority for the construction of a dwelling and on-site effluent treatment system on the current appeal site. Application withdrawn prior to a decision being issued.

Galway County Council Reg. Ref. 13/984: Application by Christopher Keane to the Planning Authority for the construction of a dwelling and an on-site effluent treatment system on the current appeal site. Application withdrawn prior to a decision being issued.

Galway County Council Reg. Ref. 03/5170: Application by Eddie Moloney to the Planning Authority for the construction of a dwelling and an on-site effluent treatment system on the current appeal site. Application withdrawn prior to a decision being issued.

Galway County Council Reg. Ref. 03/2474: Permission refused to Carmel Moloney for the construction of a house on the appeal site. Permission was refused for a single reason relating to sightlines and traffic safety.

In relation to planning applications on other sites in the vicinity the following is of relevance.

Galway County Council Reg. Ref. 14/62: Permission granted to Jimmy Walsh for the retention and completion of a two-storey dwelling on the site immediately to the north-east of the current appeal site.

Galway County Council Reg. Ref. 07/2039: Permission granted to Eddie Moloney for the construction of a dwelling on lands to the west and north-west of the current appeal site.

Under An Bord Pleanála Ref. PL07.211424 An Bord Pleanála overturned the decision of Galway County Council and granted planning permission to Albert Keane (father of the first party) for the construction of a dwellinghouse, treatment unit and all associated services on a site at Rathcosgry approximately 5 kilometres to the east of the current appeal site.

6.0 Grounds of Appeal

6.1. The decision of Galway County Council was the subject of a first party appeal on behalf of the applicant by Grealish Glynn and Associates, Architectural Services. The grounds of appeal state the following:

The applicant has lived in this area since the age of 2 and both his father and grandfather were born in the area. The applicant attended the local national and secondary school and played hurling for the local GAA club and has farmed animals on the plot of land in question. It is argued that the applicant easily complies with Policy RHO1 and it can be proved that the applicant spent the majority of his life in the area since he was 2 years old.

The applicant has a housing need for this site as it is within 5 kilometres of where he grew up. The applicant worked for a period in England but is now working for a fencing contractor since January, 2015. The proposed site is within a few hundred metres of a village containing a pub, church, shop, school and other facilities. The applicant lived with his father from 2007 to 2013 at a house located approximately 5 kilometres away and this house was granted by the Board (under Reg. Ref. 07/221424). In support of the grounds of appeal the following is submitted:

- The applicant's birth cert.
- The applicant's father's birth cert.
- Folio family farm now owned by the applicant's uncle.
- Completed housing need form.
- Folio of site.
- Confirmation of rented accommodation in Gort.
- Letter confirming full time employment.
- Letter of support from parish office.
- Letter from vet confirming bloodstock ownership.
- Letter from GAA club submitted to An Bord Pleanála in 2007 (submitted with previous application and appeal to the Board).
- Letter from Ballyglass National School submitted to An Bord Pleanála in 2007.

- Picture of a headstone from the grave of the applicant's grandparents.

- 6.2. It is argued that the above documentation proves without a doubt that the applicant has sufficient housing need under Policy RHO1 (b). The applicant's first cousins have all secured planning permission on the family farm with a similar housing need.
- 6.3. In relation to the second reason for refusal it is argued that the issue of potable water supply is a side issue. The applicant has access to a group water scheme supply and a letter confirming this is attached. The property also has a bore-hole close to the entrance gate and water test results and an output report attached indicates that the well in question is capable of supplying two houses.
- 6.4. The various documentation referred to above are attached as part of the grounds of appeal.

7.0 Appeal Responses

It appears that Galway County Council have not submitted a response to the grounds of appeal.

8.0 Observations

No observations are contained on file.

9.0 Development Plan Provision

- 9.1. The appeal site is not governed by any land use zoning provision. The site is located within the Galway Transportation Planning Study Area and is therefore categorised as an area under strong urban influence in terms of the application of criteria under rural housing guidelines. Policies in relation to rural housing are set out in Section 3.7 of the Galway County Development Plan 2015 – 2021. Under Rural Housing Policy Objective RHO1 it is stated that it is an objective of the Council to facilitate rural housing in the open countryside subject to the following criteria:
- (a) Those applicants with rural links to the area through longstanding existing and intermediate family ties seeking to develop their first home on existing family farm holdings. Documentary evidence shall be submitted to the Planning

Authority to justify the proposed development and it will be assessed on a case by case basis.

- (b) Those applicants who have no family lands but wish to build their first home within the community in which they have longstanding rural links and where they have spent a substantial continuous part of their lives i.e. of growing up in the area, schooled in the area and have immediate family connections in the area i.e. son or daughter of longstanding residence in the area. Consideration shall be given to special circumstances where a landowner has no immediate family and wishes to accommodate a niece or nephew on family lands. Having established a substantiated rural housing need, such persons making an application on a site within an 8 kilometre radius of their original family home will be accommodated, subject to normal development management criteria and provided the site does not encroach into the urban fringe of the towns of Gort, Loughrea, Athenry or Tuam. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

The site is also located in an area that is designated as Landscape Category 2 where one is the least sensitive and 5 is the most sensitive.

The site is located within c.85 metres of an area that is identified in the OPW Flooding Mapping for Groundwater Flooding.

10.0 **Planning Assessment**

I have read the entire contents of the file, have had particular regard to the Planning Authority's reasons for refusal and the grounds of appeal. I consider that the Board can restrict its deliberations to the two issues raised in the grounds of appeal, namely the principle of development/rural housing need and water supply serving the dwelling.

10.1. **Principle of Development/Rural Housing Need**

- 10.1.1. I note the inspector's conclusion in relation to the previous application and appeal which was refused by the Board for the provision of a house on the subject lands. It concludes in relation to housing need that there was no information available on the

appeal file which verifies the applicant's claims regarding his connections with the rural area such as school records or membership of clubs. It was concluded that, in the absence of such information having regard to the current residency of the applicant in Gort, and the fact that his employment is not related to the local area it is not considered that the development before the Board was in compliance with rural housing policy.

- 10.1.2. In the case of the current application before the Board, the applicant has submitted details of his local links with the area and these include a letter of support from the parish office stating that the applicant has lived in the parish of Ardrahan from the age of 2 and attended Ballyglass National School. A letter from the national school stated that the applicant attended the school in question. Also a letter from the local GAA club was submitted stating that the applicant and his family are deeply involved in sporting activities at Ardrahan GAA.
- 10.1.3. Notwithstanding the applicant's links with the area and the evidence which suggests that the applicant is local, it is clear that the applicant does not currently reside in the area but resides in rented accommodation in Gort. Furthermore the applicant is employed as a full time fencing contractor and is therefore not involved primarily in agricultural activity. I further note from the previous planning inspector's report, that the applicant's circumstances in terms of where he resided together with his employment have not changed since the previous Board's decision. Therefore while the applicant has demonstrated local links to the area, the circumstances in terms of residency and employment have not materially changed since the Board's previous decision.
- 10.1.4. I further note that the policies and provisions of the Galway City Development Plan in relation to rural housing policy likewise have not changed since the previous refusal.
- 10.1.5. The Board's reasons for refusal in the case of the previous application noted that the site is located in a rural area outside any identified settlement and is also located in an area of strong urban influence. The Board also made reference to the fact that the development if proposed "*the preservation of the rural environment and the efficient provision of public services and infrastructure and would be contrary to the proper planning and sustainable development of would contribute to the encroachment of random rural development in an area, which would militate against the area*". The

same arguments are in my opinion equally applicable to the current application before the Board and therefore the submission of documentary evidence suggesting that the applicant has rural links to the area is not in my view sufficient justification to overturn the decision of the Planning Authority or An Bord Pleanála in respect of its previous decision. The proposal would result in random rural development which would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure to serve the said dwelling.

10.1.6. I note that the National Planning Framework in support of the overall pattern of rural and small town development in Ireland seeks 'to protect areas that are under strong urban influence from unsustainable overdevelopment on the one hand and to encourage population to be sustained in more structurally weak areas that have experienced low growth and decline in recent decades in order to sustain vibrant rural communities'.

10.1.7. National Policy Objective 19 seeks to ensure that in rural areas under urban influence such as the subject site, that the policy seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing and statutory guidelines and plans having regard to the viability of smaller towns and rural settlements.

10.1.8. While the applicant has indicated that he has rural links with the area, I do not consider that the applicant has demonstrated an economic or social need to live in the area in question having particular regard to the fact that he is not involved in full-time farming. It appears that the applicant may be involved in some part-time farming but is otherwise engaged as a full-time fencing contractor.

10.2. **Water Supply Serving the Dwelling**

10.2.1. I note that in the case of the previous application before the Board, the local authority's planner's report notes that the applicant proposes to obtain a water supply from a group water scheme and the original letter from the group water scheme supply has been submitted with the application. In the case of the current application before the Board there is also a letter contained on file from the Ardrahan Group Water Scheme. It states that the applicant receives a supply of water from the Ardrahan Group Water Scheme for his lands. It does not specifically state that water

supply from the dwelling would be available to serve the dwelling in question. However, I have no reason to believe that water would not be made available to serve the dwellinghouse having regard to the previous application on the lands in question. Should the Board be minded to grant planning permission for the proposed development, it might consider it appropriate to request further information in this regard prior to issuing any final determination.

10.2.2. I would consider it more appropriate that potable water supply would be obtained from a group water supply scheme than from a potable water supply on site. The site layout map does not indicate where the borehole is located and this is particularly pertinent having regard to the proliferation of septic tanks serving dwellings in the immediate vicinity. There is in my view a potential risk of water contamination in the absence of details of the exact location of the well.

10.2.3. The absence of information with regard to the potable water supply does not in my opinion constitute reasonable grounds for refusal having regard to the fact that it appears that a group water supply scheme is available to serve the proposed dwellinghouse. However, if the Board agree with my assessment with regard to the principle of the development on site and consider that a refusal of planning permission would be appropriate in this instance I do not consider that the Board need pursue this matter further.

10.3. **Other Issues**

10.3.1. Finally, I note that the Board, in the case of PL07.246611, refused planning permission on the basis that the subject site is located adjacent to an identified groundwater flood risk area. This reason also formed the basis of Galway County Council's decision to refuse planning permission in respect of PL07 246611. I note that in the case of the current application that the applicant submitted a Flood Risk Assessment Report. A similar flood risk assessment was submitted in respect of the previous application. Notwithstanding the conclusions reached in the flood impact assessment submitted with the previous application and appeal, the Board was not satisfied that the proposed site is not at risk of flooding. Having regard to the fact that material circumstances have not changed relating to the site and in the interests of consistency it would not be unreasonable that the Board would reach the same conclusion in the case of the current application.

10.4. Appropriate Assessment

I also note that the previous application and appeal was accompanied by a Stage 1 Appropriate Assessment Screening Report. It concluded that should the development be granted planning permission there will be no impacts on the integrity or conservation objectives of any Natura 2000 sites in the vicinity. The planning inspector's report in respect of PL07.246611 carried out a detailed and independent Stage 1 Screening Assessment. It likewise considered given the separation distance between the appeal site and the nearest Natura 2000 sites that the proposed development would not impact on habitats or species which form the qualifying interests associated with Natura 2000 sites in the vicinity. As the material circumstances have not changed since the previous application, it is considered that the proposed development is not likely to have a significant effect on a European site in light of its conservation objectives. I consider this conclusion to be reasonable and I note that the Board did not raise any issues in relation to same in determining the previous application.

10.5. EIAR Screening Report

Having regard to the nature of the development comprising of a single rural house it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination.

11.0 Decision

Refuse planning permission based on the reasons and considerations set out below.

12.0 Reasons and Considerations

1. The site is located in a rural area outside any identified settlement and within an area of strong urban influence as identified in the Galway County Development Plan 2015 – 2021. The National Planning Framework under National Policy Objective 19 states that in rural areas under urban influence that the facilitation of single housing in the countryside shall be based on the

core consideration of demonstrable economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements. It is considered that the proposed development would materially contravene National Policy Objective 19 and would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would be contrary to the proper planning and sustainable development of the area.

2. The subject site is located adjacent to an identified groundwater flood risk area. Taking account of the precautionary principle and the sequential approach set out in the Planning System and Flood Risk Management Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government and the Office of Public Works in November, 2009 and notwithstanding the flood risk assessment carried out including the mitigation measures contained therein, the Board is not satisfied that the proposed site is not at risk of flooding. It is considered therefore that the proposed development would be contrary to the said Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

25th March, 2019.